

REMARKS

Applicant has carefully reviewed and considered the final Office Action mailed on August 23, 2006, and the references cited therewith. No claims are currently amended, and claims 1-41 and 53-90 were previously canceled; as a result, claims 42-52 and 91-145 are now pending in this application.

Claims 141-143 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 5,819,028 to Manghirmalani et al. (Manghirmalani). Claims 42-45, 48-52, 91-94, 98-101, 105-108, 110, 111, 113-123, 126, 127, 129, 131-134, 136, and 140 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manghirmanlani in view of U.S. Patent No. 6,256,651 to Tuli et al. (Tuli). Claims 46, 47, 95-97, 102-104, 109, 112, 124, 125, 130, 135, 144, and 145 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manghirmanlani and Tuli in view of U.S. Patent No. 6,064,984 to Ferguson et al. (Ferguson). Claims 138 and 139 are rejected under 35 USC § 103(a) as being unpatentable over Manghirmalani and Tuli in view of U.S. Patent No. 6,012, 042 to Black, et al. (Black). Claim 137 is rejected under 35 USC § 103(a) as being unpatentable over Manghirmalani and Tuli in view of U.S. Patent No. 6,055,514 to Wren. Claim 128 was rejected under 35 USC § 103(a) as being unpatentable over Manghirmalani and Tuli in view of U.S. Patent No. 6,539,361 to Richards.

Regarding the rejection of independent claim 141 under 35 U.S.C. 102(b) as being anticipated by Manghirmalani, Applicant respectfully submits that Manghirmalani does not disclose or suggest all of the features recited in claim 141.

For example, claim 141 recites:

“A data picture record derived from data input in the form of a graphical arrangement by a user, the data picture record comprising:

an identifier indicating a particular action and/or a transaction identified by the user as related to the data input;

an identity of a data parameter selected by the user to express the data input and used in the graphical arrangement for the particular action and/or transaction; and

a weighting factor associated with said data parameter, said weighting factor being derived from a

relative placement of said data parameter within the graphical arrangement.”

In stark contrast, Manghirmalani (per Abstract) is directed to an apparatus that provides a user with an indication of a computer network’s health. The indication is provided by a network management station on the computer network. The network management station has a distributable piece of code which instructs agents to gather diagnostic and status information. The network management station then evaluates the network specific diagnostic and status data gathered by the agents. Based on the evaluation, the network management station generates a representation of the computer network’s functionality (i.e., its “health”). Thereby, the user can readily determine whether the computer network requires repairs.

At col. 7: 56-67, Manghirmalani states:

In the currently preferred embodiment of the present invention, in addition to providing the health of the overall system, the health of an individual device on the network can also be provided. Furthermore, the weights assigned to each type of network specific data can be varied, depending on the end user's preferences. In other words, the impacts of the utilization, collision rate, and error rate on the overall health score can be varied by the end-user. In addition, the end-user can choose the formulas to be applied in calculating the health score. If the end-user chooses not to input any specific formulas, the present invention provides a list of default formulas.

Thus, Manghirmalani mentions that the end-user can vary “the impacts of the utilization, collision rate, and error rate on the overall health score” based on varying weights assigned to each type of network specific data. At col. 12: 16-43, Manghirmalani states:

FIG. 12 illustrates a window used to modify the settings for a particular meter type. Formula name 1201 displays the selected meter type. Formula 1202 is comprised of a scroll box 1203 which contains the formula to be applied to the selected meter type 1201. MIB objects/meters 1204 is comprised of a scroll box 1205 which contains a list of MIB objects or meter types which are used in the meter formula 1202. An “*” indicates that the MIB object/meter type is currently being used in the formula. Removal of an MIB object/meter type is accomplished by pointing an [sic] clicking a cursor on the desired MIB object/meter in scroll box 1205. Device Type Field 1206 contains the network device type associated with the selected meter type. Display type 1207 indicates the style of the meter (dial, graph, or digital). History interval 1208 specifies the frequency that the

current values are to be stored for historical data. Polling interval 1209 specifies the frequency that the meter values are updated and the display is refreshed. Max value 1210 is the theoretical maximum value of the meter. Green range 1211, yellow range 1212, and red range 1213 are fields which specify the range of meter values defining when the meter valves are in the green, yellow, and red areas respectively. The value of these fields are expressed as a percentage of the maximum meter value. The settings for a meter type can be modified by making the necessary edits in the modify window 1200. Clicking the Apply button 1214 will save the changes to the configuration file. Clicking the Dismiss button 1215 will cause the changes to be ignored.

The Office Action (page 3, lines 1-4) contends that “a weighting factor associated with said data parameter, said weighting factor being derived from a relative placement of said data parameter within the graphical arrangement” is taught by Manghirmalani at FIG. 12, item 1203, the Office Action stating, “A data parameter’s placement within the equation determines the relative factor of the data parameter.” As best understood, the Office Action equates the MIB Objects/Meters shown in the formula 1202’s scroll box 1203 with the “data parameter” recited by claim 141. Further, the Office Action apparently equates the ordering of the MIB Objects/Meters shown in the scroll box 1203 with the “graphical arrangement” recited by claim 141. However, there is no “weighting factor” associated with any of the MIB Objects/Meters as shown in the formula 1202’s scroll box 1203, and thus there is further no “weighting factor being derived from a relative placement of said data parameter within the graphical arrangement” disclosed by Manghirmalani. To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). As Manghirmalani fails in this regard, the rejection of claim 141 should be withdrawn.

Dependent claims 142-143 are allowable for at least the same reasons as independent claim 141, and are separately patentable on their own merits. For example, claim 142 recites, “wherein a collection of data picture records are grouped for said action and/or transaction.” The Office Action (page 3, lines 5-7) contends that this feature is taught by Manghirmalani at col. 7: 55- col. 8: 8. However, this portion of Manghirmalani merely mentions that an end-user can vary “the impacts of the utilization, collision rate, and error rate on the overall health score”

based on varying weights assigned to each type of network specific data. There is no disclosure or suggestion of any “collection of data picture records” that are “grouped” for any “action and/or transaction” as recited by claim 142. Thus, the rejection of claims 142 and 143 should be withdrawn.

Regarding the rejections of independent claims 42, 91, 99, 106, 111, 121, 126, 131, and 136 under 35 U.S.C. 103(a) as being unpatentable over Manghirmalani in view of Tuli, Applicant respectfully submits that Manghirmalani in view of Tuli does not disclose or suggest all of the features recited in the above-listed independent claims.

For example, claim 42 recites:

“An electronic interface for collecting information for a data picture, the interface comprising:

a data palette providing a set of data parameters available for selection, said set of data parameters including at least some corresponding to predefined statements concerning an action and/or a transaction; and

a data canvas on which a selected set of one or more of said set of data parameters can be displayed and relatively positioned arbitrarily by a user to generate the data picture,

wherein the data picture includes a display of a graphical relative positionng of the selected set of data parameters relative to one another, the graphical relative positioning being configured by the user within the data canvas.”

Applicant respectfully submits that the dial meters 1301 (and/or 1302 and/or 1303) of FIG. 13 of Manghirmalani have nothing to do with any type of “data picture wherein the data picture includes a display of a graphical relative positioning of the selected set of data parameters relative to one another, the graphical relative positioning being configured by the user within the data canvas” as recited by independent claim 42. The Office Action (page 4, lines 14-15) correctly acknowledges that “Manghirmalani fails to teach displaying graphically relative positioning of the selected set of parameters,” and relies on Tuli to compensate for the deficiencies of Manghirmalani.

Tuli (per Summary) is directed to a workflow system wherein data input by a user into a spreadsheet is computer generated into a bar chart. The system makes available to a user a

graphical display of a priority time management system. There are two windows available to a user. The first window, referred to as the “spreadsheet window,” is primarily used for inputting data. The second window, referred to as the “bar chart window,” is primarily an output window. The output is determined by the criteria of the “spreadsheet window.” The “spreadsheet window” contains a spreadsheet which is divided into multiple rows and columns. The first five columns are labeled as follows: “To-do” item, Priority, Time, Continuous, Deadline. A user inputs into the cells of each column the required data.

The “bar chart” window contains a bar graph. The bar graph consists of a y-axis and an x-axis. The “To-do” items are listed vertically along the y-axis, and the x-axis is time. The x-axis is divided into blocks representing days; each block is further divided into equal segments representing the hours of a typical work day. The bars are plotted according to the variables Priority, Time, and Deadline from the spreadsheet. The bars indicate when a user is to begin and to finish the corresponding task. Tasks which are “discontinuous” are divided into various segments of time, and spread over the days leading up to the deadline. The bars are color coded such that each “To-do” item has a distinct color based upon its priority.

Tuli, at col 7: 30-48, discusses a user adjusting a priority of a task in the spreadsheet window, which results in a regeneration of the bar graph in the bar chart window, with an adjustment, by the software, of a bar to a different day. The Office Action (page 4, lines 16-17) asserts that “displaying graphically relative positioning of the selected set of parameters” as recited by claim 42 is taught by Tuli at col. 7: 30-48. However, Applicant respectfully submits that re-positioning the bar of Tuli has no relevance with the formula of MIB Objects/Meters shown in the formula 1202’s scroll box 1203 of Manghirmalani, and thus the Office Action’s assertion makes no sense technically.

The Office Action further asserts (page 4, lines 18-21), “It would have been obvious to an artisan at the time of the invention to include Tuli’s with method of Manghirmalani in order to provide users with a graphical representation of priority.” However, Manghirmalani has no mention of any priority, and thus there is no need for any graphical representation of priority for Manghirmalani’s apparatus that provides a user with an indication of a computer network’s health. The Office Action fails to explain how such a “graphical representation of priority” could be desirable to one skilled in the art, or how it could be achieved, with regard to

Manghirmalani. The Patent Office must give specific reasons why one of ordinary skill in the art would have been motivated to combine the references. *See, e.g., In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000); *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998). No such reasons have been provided by the Office Action for the present application.

Generally, obviousness rejections require some evidence in the prior art of a teaching, motivation, or suggestion to combine and modify the prior art references. *See, e.g., McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001); *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed. Cir. 2000); *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Here, there is no teaching, motivation, or suggestion to combine and modify the either Manghirmalani or Tuli as urged by the Office Action, nor does the Office Action assert that such a motivation exists in the references.

Moreover, adding a priority representation to Manghirmalani's system makes no sense technically, and would render Manghirmalani unsatisfactory for its intended purpose, namely to provide a user with a simple indication of a computer network's health. The dials and graphs of Manghirmalani are unsuitable for any modification of any "graphical representation of priority," as urged by the Office Action. If a proposed modification would render the prior art being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Further, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). MPEP § 2143.01

Furthermore, such an addition would only add to the complexity of Manghirmalani's system without adding any benefit. It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 218 USPQ 769 (Fed. Cir. 1983). A prior art reference must be considered in this entirety including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

Additionally, an example embodiment of the present application (per Abstract) is directed to selecting and placing data parameters on a data canvas, such that a user can paint a data picture representing his/her subjective motivations, mental impressions, reasons, etc., for engaging in a particular transaction. However, as discussed previously, Manghirmalani is directed to providing a user with a simple indication of a computer network's health, and thus, Manghirmalani is not analogous prior art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992); see also *In re Clay*, 966 F.2d 656 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.").

Moreover, dependent claim 43, which depends from claim 42, recites "wherein said selected set of data parameters can be selected and physically moved by such user to a gradient on said data canvas by physically manipulating an electronic pointing device." The Office Action (pp. 4-5) contends that this feature is taught by Tuli at col. 4: 62-68. As best understood, the Office Action equates the "data parameters" recited by claims 42 and 43 with the formula shown in the scroll box 1203 and the MIB Objects shown in the scroll box 1205 of Manghirmalani's system. However, the Office Action gives no explanation of how such MIB Objects included in a formula can be "selected and physically moved" by a user to a gradient "by physically manipulating an electronic pointing device," but instead apparently relies only on the spreadsheet and bars of Tuli, with no regard to the system of Manghirmalani. Unless the patent otherwise provides, a claim term cannot be given a different meaning in the various claims of the same patent. *Georgia Pacific Corp. v. U.S. Gypsum Co.*, Nos. 97-1238,-1244 (Fed. Cir., Nov. 1, 1999); see also *Southwall Tech., Inc. v. Cardinal IG Co.*, 54 F.3d 1570, 1579, 34 USPQ2d 1673, 1679 (Fed. Cir. 1995) (holding that claim term found in different claims must be interpreted consistently); *Fonar Corp. v. Johnson & Johnson*, 821 F.2d 627, 632, 3 USPQ2d 1109, 1113 (Fed. Cir. 1987) (holding that a term used in one claim had the same meaning in another claim).

Further, independent claim 121 recites:

“A method of capturing input data from a user within an electronic interface comprising:

- (a) providing a menu within the interface for presenting a set of data parameters to the user;
- (b) providing a canvas in association with the interface for creating a data record based on said set of data parameters;
- (c) moving a selected data parameter from the set of data parameters to said canvas; and
- (d) relatively positioning said selected data parameter on said canvas so as to indicate a corresponding weighting factor to be associated with said selected data parameter.”

The Office Action (page 11, lines 3-8) contends that “(a) providing a menu within the interface for presenting a set of data parameters to the user” is taught by FIG. 12, item 1204 of Manghirmalani, and that “(c) moving a selected data parameter from the set of data parameters to said canvas” is taught by FIG. 12, items 1208-1213. However, nowhere does Manghirmalani suggest or disclose any kind of movement of any of the MIB Objects/Meters 1204 from the scroll box 1205 to any of items 1208-1213 of FIG. 12, and no reasonable combination of Manghirmalani and Tuli cures this deficiency.

None of Ferguson, Black, Wren, or Richards, neither alone nor in any reasonable combination, cure the deficiencies of Manghirmalani and Tuli as discussed above. Therefore, the rejection of claims 42, 43, and 121 should be withdrawn.

For reasons similar to those discussed previously with regard to amended independent claims 42 and 121, the rejections of independent claims 91, 99, 106, 111, 126, 131, and 136 should also be withdrawn.

Dependent claims 44-52, 92-98, 100-105, 107-110, 112-120, 122-125, 127-130, 132-135, 137-140, and 142-145 are allowable for at least the same reasons as their respective independent claims, and are separately patentable on their own merits.

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (703-286-5735) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3521.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22 day of November, 2006.

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